



UNITED NATIONS DISPUTE TRIBUNAL

Case No.: UNDT/GVA/2024/007/T

Order No.: 56 (GVA/2025)

Date: 21 May 2025

Original: English

Before: Judge Margaret Tibulya

Registry: Geneva

Registrar: Liliana López Bello

APPLICANT

v.

SECRETARY-GENERAL
OF THE UNITED NATIONS

**ORDER
ON CASE MANAGEMENT**

Counsel for Applicant:

George Irving

Counsel for Respondent:

Miryoung An, DAS/ALD/OHR/UN Secretariat

Introduction

1. By application filed on 6 March 2024, the Applicant, a staff member of the United Nations Mission in Kosovo (“UNMIK”), contests the decision to impose on her the disciplinary measure of separation from service with compensation in lieu of notice, and without termination indemnity.
2. On 2 April 2025, the Tribunal invited the parties to a Case Management Discussion (“CMD”), which was held virtually on MS Teams on 9 April 2025.
3. Following the CMD, the Tribunal directed the parties to confirm the availability of the parties and the proposed witnesses, which were discussed during the CMD, to virtually attend a hearing on the merits at some point between 21 April and 16 May 2025.
4. By email dated 17 April 2025, the Respondent submitted that V01 is traumatized and unwilling to testify before the Tribunal in person. He then requested that V01 be examined through written questions.
5. On the same day, Counsel for the Applicant submitted that he was available between 28 April and 6 May 2025, and that he objected to V01 being examined through written questions.
6. By email dated 22 April 2025, the Registry informed the parties that, pursuant to Practice Direction No. 5, all requests to the Tribunal should be made by motion. The Registry further clarified that the request regarding the oral hearing and V01 testimony was rejected by the Registry, and that they should submit their respective positions vis-à-vis the oral hearing and attendance of witnesses through a motion in CCMS.
7. On 23 April 2025, Counsel for the Applicant filed a motion proposing that the hearing be held on 7 May 2025. He further stated that the Respondent had agreed to such a date.
8. By Order No. 47 (GVA/2025) of 7 May 2025, the Tribunal directed the parties to file written submissions substantiating their respective proposed witnesses for a

hearing on the merits, the accommodations required for the examination and cross examination of said witnesses, and the parties' availability, including that of their witnesses, to virtually attend a hearing on the merits between 19 and 30 May 2025, starting at 3 p.m. (Geneva time). The Respondent was further instructed to confirm the availability of V01.

9. On 9 May 2025, Counsel for the Applicant proposed two witnesses for a hearing on the merits, i.e., the Applicant and V01. Counsel for the Applicant further informed that he and the Applicant are only available for a hearing after 1 June 2025, and that Counsel for the Respondent had been consulted and is also available in early June.

10. On the same day, the Respondent submitted that a hearing on the merits is not needed and that he has no witnesses to propose. The Respondent further submitted that V01 is severely distressed about the possibility of an oral hearing. V01 informed the Respondent that she has been traumatized by the incident in issue and is concerned about the negative impact on her mental and physical wellbeing from being exposed to the Applicant and being questioned about the incident again. The Respondent thus requests that V01 be allowed to respond to written questions instead of an oral hearing.

11. By notification dated 12 May 2025, the Tribunal determined the following:

The Tribunal is mindful of V01's wellbeing and does not wish to distress [her] in any way. However, in the interest of affording a fair hearing, and ensuring that all issues raised in the application are comprehensively determined, it is proposed that V01 be requested to reconsider her position on condition that her concerns are specially accommodated, to ensure that she will feel safe to testify.

It is proposed that V01 be requested to testify on condition that: (i) the Applicant will either not be present during her testimony or will be off camera; (ii) V01 will remain anonymized throughout the proceedings; and (iii) V01 will be allowed to testify off-camera.

The Respondent is hereby instructed [to] communicate these proposals to V01 and revert to the Tribunal by Friday, 16 May 2025.

12. On 16 May 2025, the Respondent reverted to the Tribunal, stating that, while deeply appreciative of the Tribunal's consideration of her concerns, V01 had carefully considered the proposed conditions and informed the Respondent that she was not in a position to testify in an oral hearing. In addition to the concerns already conveyed, the Respondent informed the Tribunal that V01 is currently undergoing medical treatment and considers that testifying in an oral hearing about the traumatic experience she went through would cause "unbearable harm to her well-being." V01 further submitted that she is willing to provide a generic note confirming the medical treatment.

Consideration

13. Despite the Tribunal's best efforts to accommodate V01 and without further distressing her, for several reasons she has insisted that testifying about the incident under scrutiny would cause unbearable harm to her well-being.

14. The Tribunal acknowledges the difficult position V01 is in and confirms that she does not need to submit any medical note attesting to her condition.

15. Consequently, the Tribunal finds that it has no alternative but to exclude V01 from the potential list of witnesses for the upcoming hearing on the merits.

16. The parties shall prepare written questions to be submitted to V01 by the Respondent. The Respondent shall further share V01's responses with the Tribunal and the Applicant via CCMS in due course.

Hearing on the merits

17. As decided during the CMD of 9 April 2025, the Tribunal assessed the parties' submissions and considers it appropriate to conduct a hearing on the merits. Based on its assessment of the case file and the testimonies proposed by the parties, only the Applicant will be invited to testify in the instant case.

Tentative schedule

18. Based on the information above, the tentative schedule of the hearing, which may be subject to change, is as follows:

Wednesday, 4 June 2025 (all times are Geneva time)

2 p.m.	Parties' opening statements
3 p.m.	The Applicant's Examination-in-Chief by her Counsel, followed by cross-examination by Counsel for the Respondent.
5 p.m.	Closing statements

Conclusion

19. In view of the foregoing, it is ORDERED THAT:

- a. An oral hearing will be virtually held on **Wednesday, 4 June 2025**, via Microsoft Teams;
- b. The parties are notified of the tentative schedule of appearances at the hearing as per para. 18 above;
- c. By **Tuesday, 27 May 2025**, the parties shall file their respective written questions to V01, as per para. 16 above; and
- d. The Respondent is directed to share the written questions with V01 and file her responses by **Tuesday, 3 June 2025**.

(Signed)

Judge Margaret Tibulya

Dated this 21st day of May 2025

Entered in the Register on this 21st day of May 2025

(Signed)

Liliana López Bello, Registrar, Geneva